and previously authorised a person to obtain such Grant on her behalf.

I can see no reason for holding that the Grant of Letters of Administration has lapsed or is not fully effective and the question is decided accordingly.

Order accordingly.

[APPELLATE CRIMINAL JURISDICTION]

POYSER, C.J.

January 19, 1940.

PUBLIC PROSECUTOR v. BAHADAR KHAN.

[KUALA LIPIS MAGISTRATE'S CRIMINAL APPEAL No. 5 of 1939]

Penal Code, S. 186—obstructing public servant in discharge of his public functions.

Obstruction in Section 186 of the Penal Code, means some interruption or hindrance to the progress of work being carried out by a public servant in the discharge of his public duties, and such public servant may be directly or indirectly obstructed.

MAGISTRATE'S CRIMINAL APPEAL.

T. D. Wallace, Deputy Public Prosecutor, for the Public Prosecutor.

A. K. Sen, for Respondent.

Poyser, C.J.—The respondent was charged with an offence under section 186 of the Penal Code, and acquitted. The Public Prosecutor appeals against such acquittal. The facts are as follows.

Lamin bin Kassim, an Assistant Superintendent of Police, went to Kuala Lipis prison on the 21st of July 1939 to investigate a charge of theft He there interviewed the Chief Clerk, the witness Vallipuram, and asked him to write out a statement; he then went to the guard-room to record other statements. Vallipuram wrote out his statement, and was going to the guard-room to hand it over, when the respondent, a warder, asked him to go back to the office, and on his doing so snatched the statement that had been written, tore it and threw it on the ground. Lamin was then sent for, and the respondent on being asked why he did such a thing stated he did it "for fun".

At the trial the respondent was defended, and it was submitted on his behalf, at the close of the evidence for the prosecution:—

> "That a police officer when exercising the powers conferred upon him by section 112 of the Criminal Procedure Code is not empowered to delegate them and that therefore no obstruction of Vallipuram while so delegated could operate as an obstruction of the Assistant Superintendent of Police."

The Magistrate agreed with this submission and discharged the respondent.

I think the Magistrate was wrong, and should have called on the respondent for his defence. Lamin bin Kassim had not delegated his powers; if he had directed Vallipuram to record the statements of other witnesses, and when so doing Vallipuram had been so obstructed, there would have been considerable substance in the submission on behalf of the respondent. Vallipuram, however, was not exercising delegated powers; he was only recording his own statement on the instructions of an investigating officer.

Section 112 of the Criminal Procedure Code no doubt contemplates that a statement shall be recorded by the investigating officer himself or in his presence. The question of the irregularity of the statement does not, however, arise; the question is whether there was obstruction of a public servant or not. In my opinion there was. Obstruction, in section 186 of the Penal Code, means some interruption or hindrance to the progress of work being carried out by a public servant in the discharge of his public duties, and such public servant may be directly or indirectly obstructed. This was a case of indirect obstruction, and one can think of a number of ways in which an investigating officer could be indirectly obstructed, *e.g.* if Vallipuram had been sent for to have his statement recorded, and the respondent, being aware of that fact, prevented his going, this would be obstruction within the meaning of section 186.

Although I think the Magistrate was wrong in law, I cannot direct a verdict of guilty to be entered, as the respondent was not called on for his defence. Moreover, I do not think this is an appropriate case to be sent back for further proceedings; it was stated during the hearing of this appeal that the respondent had been departmentally dealt with and the Public Prosecutor was principally concerned with the legal aspect of the case. In view of the above, the appeal will be *pro forma* dismissed.

Appeal dismissed.